

5. (Original) The charitable organization funding and member benefit program of Claim 1, further including, to the extent of actuarial value of the member's blood donations, the charitable organization purchases a life insurance policy on said member, payable to said charitable organization, to fund cost of said member's funeral and burial or cremation.

6. (Original) The charitable organization funding and member benefit program of Claim 1, wherein, the charitable organization establishes the value of said funeral and burial or cremation by said member's donations to said charitable organization, and said funeral plan value can be increased by payments from the deceased member's family, as they determine and at the expense of said deceased member's family.

REMARKS

Claims 1 through 6 remain in this case after this amendment and response to a first Patent Office Action.

Applicant notes the rejection of the application citing 35 USC 101 on the basis that the claimed invention is directed to non-statutory subject matter indicating that it is 1) merely an abstract idea; and 2) that it does not reduce to a practical application in the technological arts, (integration with computer/computer network in all steps/elements of the claim to produce an output result) and therefore are found to be non-statutory, citing cases as were decided in the early 1970's. Applicant respectfully submits that these cases have been superceded by the later practice adopted by the U.S. Patent Office as set out in Examination Guidelines for Computer-Related Inventions as published

by the U. S. Patent and Trademark Office, and that the claims do not present an abstract idea. Rather, the process deals with an existing entity that has already, for many years been in the business of collecting and distributing blood, with the present invention improving such existing system to increase blood collections by an incentive program that is clearly new and unique. Which program is, of course, controlled through a computer. Clearly, the individual steps of the present invention present a new blood collection system and constitutes more than an abstract idea in that can be practically applied and therefore undisputably falls within a technological art. With the utilization of a computer the invention clearly comes within the Examination Guidelines for Computer Related Inventions. As set out above, the Examiner has cited cases from the 1970's as barring the patentability of the invention and has analyzed the steps of the invention individually rather than as a whole. A later case of *In re Alappat*, 31 USPQ2d 1545, 1557 (Fed Cir. 1994) states that: ("Indeed, because the dispositive inquiry is whether the claim as a whole is directed to statutory subject matter, it is irrelevant that a claim may contain, as part of the whole, subject matter which would not be patentable by itself."). Clearly, the proper inquiry here is whether each of the claims of the present application as a whole produces a "useful, concrete, and tangible result." Applicant maintains that, when the above-stated analysis is applied to the pending claims of the present application as a whole, as it must, it is clear that each claim constitutes more than just abstract ideas and produces, in each case, a useful, concrete and tangible result. Thus, it is respectfully noted, that any rejection under 35 USC 101 is inappropriate against the current claims.

Applicant notes that the rejection of Claims 1 -6 citing 35 USC 112, second paragraph, of

the Office Action, and has, with this amendment made the corrections as suggested by the examiner, and, accordingly, believes that the claims as herein amended overcome the cited 35 USC 112, second paragraph rejection.

Applicant notes the rejections of Claims 1 - 6 citing 35 USC 103(a) as being unpatentable over a combination of Applicant's Admitted Prior Art (AAPA); in view of LACOUR, Article 1998, for: "Relief Agencies...", and KITTUR et al, Article 1991, for "Incentives for Organ Donation?". Of the cited references, the AAPA references and the KITTUR et al Article, of course, were cited by the Applicant, and, applicant believes, distinguished from the claims of the case. The LOCOUR, Article is a newly cited reference. The newly cited LOCOUR Article discusses the Red Cross and its functions as a charitable organization and a use of computers to perform functions such as automation and inventory control involving a database or databases. With the combination of the AAPA and LOCOUR Article deemed to teach the claimed invention except for c) a plan that the organization will provide and fully pay for, through a funeral plan that is funded from a minimum maximum value as determined by the member's actual donations upon the member's death. Which c) is deemed by the examiner to be taught by the KITTUR et al Article. This interpretation of the KITTUR et al Article is respectfully disputed by the applicant in that KITTUR et al is clearly and solely directed towards organs. Organs and blood are, of course, both found in the human body. When, however, amounts of blood, such as a pint or even two pints, are removed from a human for ultimate transfusion into another human, that blood is quickly replaced by the body within a short time period of a day or days. Organs, of course, are another matter. Where a human can give up one

organ, such as one of their two kidneys, and still live a full life or even parts of organs, such as a liver, can be removed without long term consequences to a donor, such is certainly not the case with other organs such as a heart or lungs. It is these organs, among others, that are removed at death that the KITTUR et al Article is directed to. Accordingly, outside of a person committing to be an organ donor while they are alive, such commitment does not come into existence until that person actually dies and, even then, it is generally up to the deceased person's family to authorized the donation. Not so blood. Blood can be donated as one or more pints a large number of times during that persons life, with, as per the claims of the present application, the donor to receive benefits for their contributions during their life, and their family will have the benefit of their contributions at their death in the form of a paid funeral plan. As the Examiner points out, the idea of funeral assistance to the family of the organ donor is mentioned in the KITTUR et al Article. However, the compensation options discussed in the KITTUR et al Article, are conveyed to the organ donors heirs who, of course, usually make the final organ donation decision. Accordingly, the compensation, whether it is a money, a paid up funeral plan, or other consideration, is essentially for the purchase of the organs. Whereas, the compensation set out in the claims of the present application, particularly independent Claim 1, is, and remain, the property of the member who is a blood donor and financial contributor, up until their death and then, and only then, the benefits pass with the members estate to their heirs. The member blood donor can, during their life, change their beneficiary or beneficiaries just as they can change their will.

Further, the primary reference against patentability, the KITTUR et al Article, has obviously

had very little distribution in this country and would clearly be interpreted, by a person knowledgeable or skill in the art as directed towards organ donations only. This is not a reference that a person knowledgeable or skilled in the art in this country would be aware of as relating to blood collection. Accordingly, while the KITTUR et al Article is a proper reference, reasonably it should not be afforded the weight that a reference, such as an earlier issued U.S. or Foreign Patent, would be afforded as a reference for anticipating an invention.

Additionally, it should be clear that the invention addresses and potentially solves a pressing problem of how to stimulate blood donations enabling the entity, such as the Red Cross, to consistently maintain a sufficient supply of blood to meet most emergencies without having to go through heroic efforts to stimulate blood donates in time of emergency. With members consistently donating blood and making donations to the entity, such as the Red Cross, blood and cash shortages should be averted.


Clearly, none of the cited art deals with an ongoing membership system where the member, by their contributions of blood, is guaranteed that the expenses of their funeral and final resting place will be covered by the program and, as set out in the dependent claims, they will additionally receive member benefits from their participation in the program during their life. Certainly, these elements are not shown in the cited art, nor a reasonable combination thereof.

None of the cited art, including the KITTUR et al Article shows a use of incentives for donating blood, and the KITTUR et al incentives, including cash payments, are strictly for promoting organ donations.

Examiner: Dean Tan Nguyen
Art Unit: 3629
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Applicant believes that, with the correction of the 35 USC 112, second paragraph, rejections and the arguments herein presented that the Claims of the case, independent Claim 1 and Claims 2 through 6 dependent thereon, are clearly distinguished from a reasonable interpretation of the combination of the cited references that individually and collective do not anticipate a blood collection incentive program like that of the invention and, accordingly, applicant respectfully requests the allowance of Claim 1, the sole independent claim, and Claims 2 through 6 dependent thereon.

Respectfully submitted,



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MARKED-UP VERSION OF THE CLAIMS THAT HAVE HAD CHANGES MADE

THEREIN

In the Claims:

1. (Currently Amended) A charitable organization funding a member benefit program comprising[,]; a charitable organization that is qualified to receive tax deductive donations of money, goods and services and distributes human blood and blood products throughout the world; members of said charitable organization; a plan administered by said charitable organization whereby, for the member regularly paying dues to said charitable organization and regularly donating blood to said charitable organization, said charitable organization will provide and fully pay for, through a funeral plan that is funded from a minimum to maximum value as determined by said member's actual donations of money, goods and/or services, including blood, said member's funeral, and burial or cremation at their demise; and a computer for maintaining a record of individual member's contributions of money and blood to said charitable organization during said member's life for establishing said funeral plan value, taking into account a value of said donations and amount of money as have been donated, at said member's death.

2. (Currently Amended) The charitable organization funding and member benefit program of Claim 1, further including, as an additional member contribution, said member agrees to donate their usable organs to the charitable organization upon their death; with the computer for maintaining a record of individual member's contribution to further provide for tracking said member and coordinating with a medical entity, as said member designates, for a timely harvesting of said

member's viable organs at their death; and a value of which agreement to donate organs is considered in established the funeral plan value.

3. (Currently Amended) The charitable organization funding and member benefit program of Claim 2, wherein, the computer for maintaining a record contains the member's personal information [includes] including said member's social security, number, blood type, DNA information and date for facilitating coordinating the harvesting and utilization of said member's usable organs at their death.

4. (Original) The charitable organization funding and member benefit program of Claim 1, further including, as member benefits, discounts on product and services, and legal services as relating to estate planning matters.

5. (Original) The charitable organization funding and member benefit program of Claim 1, further including, to the extent of actuarial value of the member's blood donations, the charitable organization purchases a life insurance policy on said member, payable to said charitable organization, to fund cost of said member's funeral and burial or cremation.

6. (Original) The charitable organization funding and member benefit program of Claim 1, wherein, the charitable organization establishes the value of said funeral and burial or cremation by said member's donations to said charitable organization, and said funeral plan value can be increased by payments from the deceased member's family, as they determine and at the expense of said deceased member's family.

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on June 17, 2005.



M. Reid Russell

June 17, 2005

Date

List of items sent:

Amendment and Response Marked Up Copy of the Claims and Mailing Certificate(11 pages)

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